

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Nos. 24-2875, 24-2888, 25-1355

PATRICIA HOLMES,
Appellant in Nos. 24-2875 & 25-1355

v.

AMERICAN HOMEPATIENT, INC.
Appellant in No. 24-2888

On Appeal from the District Court
for the Middle District of Pennsylvania
(D.C. Civil No. 4:21-cv-01683)
District Judge: Honorable Matthew W. Brann

Argued: June 9, 2026

Before: CHAGARES, *Chief Judge*, RESTREPO and McKEE, *Circuit Judges*

(Filed: August 27, 2026)

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OPINION*

McKEE, *Circuit Judge*.

Patricia Holmes was the only Black employee at the Penn State office of American HomePatient, Inc. (“AHOM”). Her White supervisor, Timothy McCoy, who was responsible for ensuring that employees did not engage in discriminatory or harassing conduct, called all Black people “niggers,” used other racial epithets, and made reference to the KKK. A jury rendered a verdict in favor of Holmes and against AHOM

* This disposition is not an opinion of the full Court and, pursuant to 3d Cir. I.O.P. 5.7, does not constitute binding precedent.

for creating a racially hostile work environment in violation of 42 U.S.C. § 1981, awarding her \$500,000 in compensatory damages and \$20,000,000 in punitive damages. Following several post-trial motions, the District Court upheld the jury's verdict with the exception that it concluded the jury's punitive damages award was unconstitutional and reduced the award to \$1,000,000—a ratio of 2:1 punitive to compensatory damages.

Both parties contest the District Court's punitive damages award.¹ As set forth below, we agree with the District Court's order in all respects except its decision that a 2:1 ratio was the constitutional ceiling for a punitive damages award. While we agree with the District Court that the jury's punitive damages award was constitutionally excessive, we find AHOM's conduct exceedingly reprehensible and hold that a 4:1 ratio more appropriately reflects the severity of AHOM's actions and does not violate due process. Accordingly, we will affirm the District Court's order but vacate the portion reducing punitive damages to \$1,000,000, and we will remand for the District Court to enter an award of punitive damages in the amount of \$2,000,000.²

¹ The parties filed cross-appeals. Holmes also filed a second appeal contesting the District Court's award of attorney's fees. We review the reasonableness of an award of attorney's fees for an abuse of discretion. *Smith v. Phila. Hous. Auth.*, 107 F.3d 223, 225 (3d Cir. 1997). Holmes objects to the District Court's sua sponte reduction of the requested hourly rates for attorneys and paralegals. The plaintiff, however, "bears the burden of producing sufficient evidence of what constitutes a reasonable market rate for the essential character and complexity of the legal services rendered in order to make out a prima facie case." *Evans v. Port Auth. of N.Y. & N.J.*, 273 F.3d 346, 361 (3d Cir. 2001) (citation modified). If the plaintiff fails to make such a showing, the district court is "free to affix an adjusted rate." *Loughner v. Univ. of Pittsburgh*, 260 F.3d 173, 180 (3d Cir. 2001). We agree with the District Court that Holmes did not meet her burden and thus we will affirm the District Court's order awarding attorney's fees.

² Chief Judge Chagares would affirm the District Court's 2:1 ratio.

I.

Holmes worked for AHOM in the Penn State office as a Customer Service Representative from October 2019 to July 2020. McCoy was the only supervisor on site, and he was responsible for preventing discrimination and protecting his employees from a hostile work environment.

During Holmes's tenure at AHOM, McCoy and another employee made racist comments, such as McCoy referring to his uncle who had a dark complexion as a "coonie," and the employee referring to her mixed-race granddaughter as an "Oreo baby."³ These comments pale in comparison, however, to the "nigger incident" and the "fit test incident."

A.

While at work, McCoy turned to Holmes and asked her, "what do you think about the 'N' word?"⁴ Holmes responded that it was "an ugly word" that "[n]o one should be saying."⁵ McCoy asked Holmes, "you do know the 'N' word means black people, right?"⁶ McCoy picked up his phone to Google it and show her that it meant Black people. However, he misspelled it as Niger.⁷ Another employee told McCoy that he spelled it incorrectly because it has two G's. The employee "pronounce[d] it to him as if

³ App. 464–65, 469–70, 540, 548.

⁴ App. 472.

⁵ App. 472.

⁶ App. 472.

⁷ At trial, McCoy provided a far-fetched denial of his use of the word "nigger," insisting that he was googling the term "Niger Mountain" rather than the word "nigger" because "there was a debate about renaming a mountain in Western Pennsylvania." App. 318–19.

he was a fourth grade student . . . [a]nd she said it's nig-gerrr."⁸ Both McCoy and the employee "bust out laughing."⁹ Holmes understood McCoy to be calling her a "nigger":

I took that as him calling me a nigger. Because he didn't say the "N" word means any other race of people. He said black people. His definition is "N" words are black people. So yes, that man called me a nigger, without saying it, when he said it, because that's his definition; that's how he defines that word.¹⁰

Holmes testified that it was "[o]ne of the most humiliating days of [her] life, that [her] boss would view [her], an entire race in such a derogatory, demeaning, cruel, immoral way."¹¹ The incident caused her to shake, made her feel shameful, and impacted how she interacted with White people. She was so upset that she vomited twice before calling to report what had happened on the following day.

B.

Another incident occurred when Holmes received a mandatory N95 mask fit test, which required a co-worker to place a white hood over her head. During the test, McCoy asked another employee to take a picture or video of the fit test. Afterward, Holmes overheard McCoy laughing as he said to her co-worker, "It's ironic to see a white woman

⁸ App. 474.

⁹ App. 474.

¹⁰ App. 476.

¹¹ App. 476–77.

putting a hood on -- a white hood on a black woman's head."¹² McCoy then laughed in Holmes's face.

Holmes connected the white hood comment to the KKK and "felt horrible."¹³ "It made [her] sick to [her] stomach."¹⁴ She wondered how someone could be so "cruel" and "vicious" and "look at somebody else and . . . think of them in that regard."¹⁵ Even four years after the incident, Holmes "still shak[es]," "still cr[ies]," and cannot sleep because she has nightmares "about this very day."¹⁶

C.

Holmes reported these incidents to Lois Dodson, the employee relations manager, and Mark Cattron, an area manager and McCoy's supervisor. During the investigation into Holmes's allegations, they learned that McCoy threatened employees to prevent them from contacting HR with complaints. Rather than disciplining McCoy, Dodson and Cattron believed McCoy's excuse that "he was unaware that human resources could support him with employee issues,"¹⁷ and "told him that employees are more than welcome to call human resources, just like managers, if they have questions."¹⁸ But even

¹² App. 467.

¹³ App. 468.

¹⁴ App. 468.

¹⁵ App. 468.

¹⁶ App. 468.

¹⁷ App. 280.

¹⁸ App. 300.

when employees made complaints to Cattron, he would call McCoy and they would “just laugh.”¹⁹

When Holmes reported that McCoy had used the word “nigger,” Cattron and a human resources representative decided it was important to counsel *both* McCoy and Holmes so “all parties involved in a political discussion that can lead to race, understand that that’s not appropriate for the workplace.”²⁰ Holmes overheard that she and McCoy were also going to be written up for the “nigger incident.” Holmes asked McCoy if that was true, and he responded by asking, “What are your intentions here, Patricia? Are you looking to get somebody fired, or do you want to be happy here?”²¹ Although Holmes was blameless, McCoy accused her of “trying to start trouble in here.”²² Amazingly, despite McCoy’s involvement in the incident, including the allegation that McCoy had used the word “nigger,” Cattron decided that McCoy should counsel Holmes “regarding inappropriate work topics” because he was her direct supervisor.²³

Despite receiving HR training that all people involved should be questioned during an investigation before reaching a conclusion, Dodson did not interview the other employee involved in the “nigger incident” because she “understood what happened and had enough information to make a decision.”²⁴ She concluded, without interviewing the other employee, that McCoy “was involved in the conversation” in which use of “nigger”

¹⁹ App. 270.

²⁰ App. 439.

²¹ App. 481.

²² App. 485.

²³ App. 439–41. It is unclear from the record whether this counseling ever occurred.

²⁴ App. 262.

occurred, but that “[h]e did not make the racial slur.”²⁵ Notwithstanding allegations that McCoy used several racial slurs, some of which he admitted to, McCoy was not disciplined for his own conduct. Instead, he only received a written warning for the other employee’s conduct during the incident. Only two business days after issuing the written warning to McCoy, Dodson reached out to Holmes and received confirmation that no further incidents had occurred. Apparently, based in large part upon McCoy’s self-serving statement, Dodson concluded the investigation that very same day.

D.

After the investigation, McCoy did not make any additional racial comments. However, he denied Holmes training opportunities and became verbally aggressive towards her. Following a group session with corporate, McCoy admonished Holmes that she “shouldn’t have been asking any questions” because her questions were “embarrassing,” and that she “need[ed] to be thick-skinned” as he was “getting sick and tired of [her] bitching.”²⁶ Holmes finally decided to resign the day McCoy “advance[d] towards [her] aggressively” and twice snatched papers out of her hand, which “scared” her because she was alone in the building with him and did not know “what else he was capable of.”²⁷

II.²⁸

²⁵ App. 262.

²⁶ App. 490–91.

²⁷ App. 492–93.

²⁸ The District Court had jurisdiction pursuant to 28 U.S.C. § 1331. We have jurisdiction pursuant to 28 U.S.C. § 1291.

The parties challenge the availability of punitive damages as well as the District Court's punitive damages award. We discuss each claim in turn.

A.

AHOM contends that punitive damages are inappropriate as a matter of law because a reasonable jury could conclude that AHOM made good-faith efforts to prevent racial discrimination. The District Court correctly rejected that argument. We review that decision *de novo*, applying the same standard as the District Court.²⁹ That is, “[s]uch a motion should be granted only if, viewing the evidence in the light most favorable to the nonmovant and giving it the advantage of every fair and reasonable inference, there is insufficient evidence from which a jury reasonably could find liability.”³⁰

Punitive damages may “properly be awarded against a master or other principal because of an act by an agent if . . . the agent was employed in a managerial capacity and was acting in the scope of employment.”³¹ The Supreme Court, however, established an affirmative defense: an employer may not be held liable for punitive damages “for the discriminatory employment decisions of managerial agents where these decisions are contrary to the employer’s good-faith efforts to comply” with the law.³² The jury rejected that defense here, and the District Court denied AHOM’s post-trial challenge, concluding that a reasonable jury could conclude that “AHOM did not implement its anti-

²⁹ *Lightning Lube, Inc. v. Witco Corp.*, 4 F.3d 1153, 1166 (3d Cir. 1993).

³⁰ *Id.*

³¹ *Kolstad v. Am. Dental Ass’n*, 527 U.S. 526, 542 (1999) (citation modified).

³² *Id.* at 545 (citation modified).

discrimination and anti-harassment policies in good faith.”³³ We agree.

AHOM’s argument to the contrary rests on two propositions: (1) the harassment ended “as soon as Holmes reported it” to human resources;³⁴ and (2) AHOM “effectively responded” to all of Holmes’s allegations.³⁵ Neither is correct when we view the evidence in the light most favorable to Holmes.

First, Holmes testified about incidents of verbal and physical aggression that occurred after she reported the discriminatory behavior. While this conduct may not have been overtly racial, it was, as the District Court noted, “informed by the racial animus already displayed by McCoy.”³⁶ It cannot be viewed in isolation. Second, AHOM did not respond effectively, or even appropriately, to all of Holmes’s corroborated allegations of discriminatory conduct. Incredibly, after the “nigger incident,” Cattron assigned McCoy—Holmes’s alleged harasser—to counsel her regarding workplace behavior. And during the purported investigation into that incident, Dodson ignored HR guidance to interview *all* involved parties, leading her to erroneously conclude, absent the testimony of a key witness, that McCoy “did not make the racial slur.”³⁷ Although McCoy did receive a written warning, that warning focused on his failure to supervise another employee. It did not address McCoy’s own discriminatory conduct. In sum, there is

³³ *Holmes v. Am. HomePatient, Inc.*, No. 4:21-CV-01683, 2024 WL 4112654, *15 (M.D. Pa. Sept. 6, 2024).

³⁴ Second Step Br. 20.

³⁵ Second Step Br. 29.

³⁶ *Holmes*, 2024 WL 4112654, *11; *cf. Aman v. Cort Furniture Rental Corp.*, 85 F.3d 1074, 1082 (3d Cir. 1996) (“Discrimination . . . is often simply masked in more subtle forms.”).

³⁷ App. 262.

sufficient evidence to support the jury’s finding that AHOM did not make a good-faith attempt to comply with the law.³⁸

B.

Both Holmes and AHOM contest the District Court’s decision to award \$1,000,000 in punitive damages. Holmes contends that the District Court erred by reducing the jury’s award of \$20,000,000, urging that the jury’s award is constitutional. In the alternative, if we find the jury’s award constitutionally excessive, she argues that the punitive damages award should be reduced at most to nine times the amount of the compensatory damages award, which she claims would satisfy any due process concerns. AHOM, by contrast, contends that the District Court should have further reduced the jury’s award to \$500,000. “We review de novo a trial court’s constitutionally required reduction of damages.”³⁹

The Supreme Court has repeatedly held that the Due Process Clause limits punitive damages.⁴⁰ If we determine that the jury’s award is constitutionally excessive, we “should decrease the award to an amount the evidence will bear, which amount must necessarily be as high—and may well be higher—than the level the court would have deemed appropriate if working on a clean slate.”⁴¹ While “the relevant constitutional line

³⁸ We have considered AHOM’s other arguments in favor of reversal and are not persuaded.

³⁹ *Jester v. Hutt*, 937 F.3d 233, 238 (3d Cir. 2019) (citation modified).

⁴⁰ *See State Farm Mut. Auto. Ins. Co. v. Campbell*, 538 U.S. 408, 416–18 (2003).

⁴¹ *Willow Inn, Inc. v. Pub. Serv. Mut. Ins. Co.*, 399 F.3d 224, 231 (3d Cir. 2005).

is inherently imprecise,”⁴² the Supreme Court has provided three guideposts to aid courts in determining when a damages award exceeds the constitutional bounds: (1) the reprehensibility of the conduct; (2) “the disparity (ratio) between the award and the harm the plaintiff suffered or could have suffered”; and (3) how the award compares to any “civil penalties authorized or imposed in comparable cases.”⁴³ We address each below.

1.

The Supreme Court has emphasized that the “most important indicium of the reasonableness of a punitive damages award is the degree of reprehensibility of the defendant’s conduct.”⁴⁴ To evaluate reprehensibility, we consider whether

the harm caused was physical as opposed to economic; the tortious conduct evinced an indifference to or a reckless disregard of the health or safety of others; the target of the conduct had financial vulnerability; the conduct involved repeated actions or was an isolated incident; and the harm was the result of intentional malice, trickery, or deceit, or mere accident.⁴⁵

We agree with Holmes that conduct involving intentional racial discrimination such as the discrimination involved here, is extremely reprehensible,⁴⁶ and the District Court understated the severity of AHOM’s conduct when it analyzed several of the reprehensibility factors.

⁴² *Wexler v. Hawkins*, 173 F.4th 478, 486 (3d Cir. 2026) (quoting *Cooper Indus. Inc. v. Leatherman Tool Grp., Inc.*, 532 U.S. 424, 434 (2001)).

⁴³ *Washington v. Gilmore*, 124 F.4th 178, 186 (3d Cir. 2024) (emphasis omitted) (quoting *State Farm*, 538 U.S. at 418).

⁴⁴ *State Farm*, 538 U.S. at 419 (quoting *BMW of N. Am., Inc. v. Gore*, 517 U.S. 559, 575 (1996)).

⁴⁵ *Id.*

⁴⁶ See *Zhang v. Am. Gem Seafoods, Inc.*, 339 F.3d 1020, 1043 (9th Cir. 2003) (explaining that “intentional discrimination on the basis of race” is “highly reprehensible conduct” that poses “a serious affront to personal liberty”).

The first subfactor favors Holmes because she suffered emotional harm that manifested in physical symptoms,⁴⁷ including nausea, vomiting, shaking uncontrollably, crying, insomnia, and nightmares.

The second factor favors Holmes because McCoy knew that no Black employee should ever have to hear the words “nigger” or “coonie,” or hear her boss laughing while using these racial slurs. McCoy recognized that these words were dehumanizing, and exhibited reckless disregard of Holmes’s health by using them. However, the weight of this factor in Holmes’s favor is somewhat mitigated by the fact that the conduct did not pose a risk to anyone else’s health or safety and “there is near-complete overlap between” the physical harm she suffered and the risk to her health.⁴⁸

The third subfactor favors Holmes who was financially vulnerable due to her \$13/hour salary.

The fourth subfactor favors Holmes because she had to experience repeated racial discrimination during her employment. This included enduring racial slurs like “coonie,” “nigger,” and “Oreo baby,” as well as a thinly veiled reference to the KKK. The obvious

⁴⁷ See, e.g., *Williams v. First Advantage LNS Screening Sols. Inc.*, 947 F.3d 735, 751 (11th Cir. 2020) (finding this factor favored the plaintiff who experienced emotional distress that resulted in headaches, reduced appetite, and insomnia); *Moore v. Am. Fam. Mut. Ins. Co.*, 576 F.3d 781, 790 (8th Cir. 2009) (finding this factor favored the plaintiff because the harm was “not limited to financial losses” as the plaintiff suffered emotional distress that resulted in chest pains and insomnia). Although several courts have concluded this factor also favors a plaintiff who experiences emotional distress without physical symptoms, see *Faulk v. Dimerco Express USA Corp.*, 172 F.4th 844, 863 (11th Cir. 2026); *Stampf v. Long Island R. Co.*, 761 F.3d 192, 209 (2d Cir. 2014); *Nance v. Kentucky Nat. Ins. Co.*, 240 F. App’x 539, 548–49 (4th Cir. 2007), we need not decide this here because Holmes experienced physical symptoms.

⁴⁸ *Wexler*, 173 F.4th at 487.

harm was magnified by the fact that the supervisor responsible for ensuring an appropriate workplace environment was the one poisoning it.

Lastly, the malice with which AHOM acted towards Holmes is a strong indicator of AHOM's reprehensibility.⁴⁹ Dodson, Cattron, and McCoy knew that it was unlawful to create a hostile work environment based on race, and McCoy acknowledged that words such as "nigger" and "coonie" were extremely offensive and dehumanizing. Despite this, McCoy intentionally used these terms and also referenced the KKK in a manner that could only intensify the pernicious nature of his comments. And rather than attempting to enforce the company's anti-discrimination policy, he used threats to dissuade employees from complaining to HR.

Dodson and Cattron did not discipline McCoy for intimidating employees who wished to make complaints. Rather, when employees made complaints to Cattron, he would call McCoy and they would "just laugh."⁵⁰ Shockingly, after the "nigger incident," Cattron decided that McCoy—Holmes's alleged harasser—should counsel her about appropriate workplace behavior. When it came to the investigation, Cattron and Dodson found it unnecessary to interview a key witness and then concluded, without conducting a full investigation as required by AHOM's policy, that McCoy did not use a racial slur. Despite evidence, including McCoy's admission that he used certain racial epithets, AHOM never disciplined McCoy for that conduct. Dodson's and Cattron's

⁴⁹ We decline AHOM's invitation to confine the scope of conduct we may consider in the reprehensibility analysis to a company's human resources personnel.

⁵⁰ App. 270.

responses to McCoy's use of racial epithets was not mere accident. The actions of McCoy, Dodson, and Cattron demonstrate that AHOM acted with intentional malice towards Holmes.

Each of the subfactors supports our conclusion that AHOM's discriminatory conduct was exceedingly reprehensible.

2.

While the Supreme Court has shied away from "identify[ing] concrete constitutional limits on the ratio,"⁵¹ the Court acknowledged that "in practice, few awards exceeding a single-digit ratio between punitive and compensatory damages, to a significant degree, will satisfy due process."⁵² Although the Court has remarked that a 4:1 ratio "might be close to the line of constitutional impropriety,"⁵³ it recognized this ratio is "not binding,"⁵⁴ and we have repeatedly affirmed awards with a higher ratio.⁵⁵ We have also acknowledged that "[w]hen compensatory damages are substantial, then a

⁵¹ *State Farm*, 538 U.S. at 424.

⁵² *Id.* at 425.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ See, e.g., *Washington*, 124 F.4th at 187 (10:1); *CGB Occupational Therapy, Inc. v. RHA Health Servs., Inc.*, 499 F.3d 184, 193 (3d Cir. 2007) (6.88:1); *Brand Mktg. Grp. LLC v. Intertek Testing Servs., N.A., Inc.*, 801 F.3d 347, 351 (3d Cir. 2015) (4.78:1). Furthermore, courts have frequently affirmed awards that are in the high single digits or exceed the single-digit ratio when addressing discrimination. See, e.g., *Faulk*, 172 F.4th at 864 (7.69:1); *United States v. Rupp*, 68 F.4th 1075, 1082 (8th Cir. 2023) (20:1, 20:1, 3.3:1, and 1:1); *Goldsmith v. Bagby Elevator Co.*, 513 F.3d 1261, 1283 (11th Cir. 2008) (9.2:1); *Zhang*, 339 F.3d at 1044 (7.2:1); *Swinton v. Potomac Corp.*, 270 F.3d 794, 818–19 (9th Cir. 2001) (28:1); *Hampton v. Dillard Dep't Stores, Inc.*, 247 F.3d 1091, 1116 (10th Cir. 2001) (20:1); *Deters v. Equifax Credit Info. Servs., Inc.*, 202 F.3d 1262, 1266 (10th Cir. 2000) (59:1); *EEOC v. W&O, Inc.*, 213 F.3d 600, 616 (11th Cir. 2000) (26.3, 16.1:1, and 8.3:1); *Romano v. U-Haul Int'l*, 233 F.3d 655, 672 (1st Cir. 2000) (19:1).

lesser ratio, perhaps only equal to compensatory damages, can reach the outermost limit of the due process guarantee.”⁵⁶ However, in cases involving particularly reprehensible conduct, such as intentional discrimination, our sister courts of appeals have upheld higher ratios despite a large compensatory award.⁵⁷ Ultimately, “[t]he precise award in any case, of course, must be based upon the facts and circumstances of the defendant’s conduct and the harm to the plaintiff.”⁵⁸

To determine a reasonable ratio, we also consider “the rationales for punitive damages are to punish wrongdoing and deter it.”⁵⁹ We must be mindful that if we fail to deter such conduct, others could also suffer.⁶⁰ Given the need to actually punish and deter, we cannot ignore the defendant’s size and wealth in selecting a ratio that will

⁵⁶ *State Farm*, 538 U.S. at 425.

⁵⁷ *Faulk*, 172 F.4th at 849, 865 (rejecting the argument “that because the compensatory damages award was ‘substantial,’ a 1:1 ratio may be all that is constitutional,” and affirming a \$3,000,000 punitive damages award even though the jury had awarded the plaintiff \$390,000 in compensatory damages because the conduct was “exceedingly reprehensible”); *Zhang*, 339 F.3d at 1026–27, 1045 (affirming a \$2,600,000 punitive damages award even though the jury had awarded the plaintiff \$360,000 in compensatory damages because the conduct was “highly reprehensible”); *see, e.g., Ondrisek v. Hoffman*, 698 F.3d 1020, 1030–31 (8th Cir. 2012) (finding the defendant’s conduct “exceptionally reprehensible” and awarding a 4:1 ratio so each plaintiff received \$12,000,000 in punitive damages and \$3,000,000 in compensatory damages); *Action Marine, Inc. v. Cont’l Carbon Inc.*, 481 F.3d 1302, 1320–22 (11th Cir. 2007) (finding the defendant’s conduct “exceedingly reprehensible” and affirming a “5:1” ratio where the plaintiff received \$17,500,000 in punitive damages and \$3,200,000 in compensatory damages). Additionally, in *Brand Marketing*, a case involving fraudulent and negligent misrepresentation regarding vent-free heater testing, a much less reprehensible activity than intentional discrimination, we affirmed a ratio of almost 5:1 where the jury awarded \$5,000,000 in punitive damages and \$1,045,000 in compensatory damages. 801 F.3d at 351–52.

⁵⁸ *State Farm*, 538 U.S. at 425.

⁵⁹ *Washington*, 124 F.4th at 187.

⁶⁰ *Id.* at 188.

sufficiently punish and deter. “What may be awesome punishment for an impecunious individual defendant may be wholly insufficient to influence the behavior of a prosperous corporation.”⁶¹

The jury’s punitive damages award in this case—\$20,000,000—yields a ratio of 40:1. That does not pass constitutional muster. But the District Court’s reduction to a 2:1 ratio decreased the award to a level that cannot be justified given AHOM’s exceedingly reprehensible conduct and its prosperity.

“No single act can more quickly alter the conditions of employment and create an abusive working environment than the use of an unambiguously racial epithet such as ‘nigger’ by a supervisor in the presence of his subordinates.”⁶² To prevent any other employees from experiencing such harmful and egregious misconduct, we must consider that AHOM is one of the largest home healthcare providers in the country with more than 250 locations nationwide, supplying products and services to over one million patients. A punitive damages award of \$1,000,000 is meagre in comparison to AHOM’s tremendous resources and does not reach the constitutional limit. It is an award that understates both

⁶¹ *CGB*, 499 F.3d at 193 (citation modified).

⁶² *Rodgers v. W.-S. Life Ins. Co.*, 12 F.3d 668, 675 (7th Cir. 1993) (citation modified); *Ayissi-Etoh v. Fannie Mae*, 712 F.3d 572, 577 (D.C. Cir. 2013) (same); *see also Castleberry v. STI Grp.*, 863 F.3d 259, 262, 265 (3d Cir. 2017) (holding that a supervisor’s single use of a racial slur to the plaintiff and his co-workers, “that if they had ‘nigger-rigged’ the fence, they would be fired,” “constitute[d] severe conduct that could create a hostile work environment”); *Swinton*, 270 F.3d at 817 (recognizing that the word “nigger” is “perhaps the most offensive and inflammatory racial slur in English, a word expressive of racial hatred and bigotry” (citation modified)); *Spriggs v. Diamond Auto Glass*, 242 F.3d 179, 185 (4th Cir. 2001) (“Far more than a ‘mere offensive utterance,’ the word ‘nigger’ is pure anathema to African-Americans.”).

the injuries inflicted upon Holmes and the pernicious evil of racism. “There can be no question of the importance of our society’s interest in combating discrimination; this nation fought the bloodiest war in its history in part to advance the goal of racial equality, adding several amendments to the Constitution to cement the battlefield victory.”⁶³ And § 1981 was enacted pursuant to one of those amendments—the Thirteenth Amendment.⁶⁴ Thus, our Nation’s history further bolsters our conclusion that violations of § 1981 must be properly punished and deterred.

In order to punish and deter AHOM for its exceedingly reprehensible conduct, we find that a ratio of 4:1⁶⁵ is both constitutional and appropriate.

3.

Finally, we consider “what ‘civil penalties [are] authorized or imposed in comparable cases.’”⁶⁶ “This guidepost reflects a ‘deference to legislative judgments concerning the appropriate sanctions for the conduct at issue.’”⁶⁷ Section 1981, however, does not limit damages. AHOM urges us to adopt Title VII’s damages cap of \$300,000

⁶³ *Zhang*, 339 F.3d at 1043 (citing U.S. Const. amends. XIII, XIV, XV).

⁶⁴ *Young v. Int’l Tel. & Tel. Co.*, 438 F.2d 757, 759 (3d Cir. 1971).

⁶⁵ We do not consider attorney’s fees to be part of the compensatory damages award for the purposes of computing the punitive damages ratio in this instance. While this Court has done so in the past, *see Willow Inn*, 399 F.3d at 234–37, that decision concerned a state statute and relied on state law to conclude that attorney’s fees should be considered compensatory for ratio purposes. We have never considered an award of attorney’s fees to be part of the compensatory damages award for purposes of computing the punitive damages ratio in a case premised on a violation of federal law, and we do not believe it is appropriate to do so here.

⁶⁶ *Washington*, 124 F.4th at 188 (alteration in original) (quoting *State Farm*, 538 U.S. at 418).

⁶⁷ *Willow Inn*, 399 F.3d at 237 (quoting *Gore*, 517 U.S. at 583).

as an appropriate comparator. We need not decide how to evaluate this guidepost in the absence of statutory penalties, however, “because the other two [guideposts] already support the award[’s] constitutionality.”⁶⁸

III.

For the foregoing reasons, we will affirm the District Court’s order but vacate and remand the portion of the order reducing punitive damages to \$1,000,000 and instruct the District Court to enter an award of punitive damages in the amount of \$2,000,000.⁶⁹

⁶⁸ *Washington*, 124 F.4th at 188; *accord Wexler*, 173 F.4th at 490 (concluding “that the third guidepost [was] inconsequential in light of the import of the first two”).

⁶⁹ As discussed *supra* note 1, we will also affirm the District Court’s order awarding attorney’s fees.